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Display Date	1. 15. 99
Publication Date	1. 19. 99
Certifier	C. W. J. D. A. Y.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 97F-0421]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of di-*tert*-butyl-*m*-cresyl phosphonite condensation product with biphenyl for use as an antioxidant and/or stabilizer for olefin polymers intended for use in contact with food. This action responds to a petition filed by Yoshitomi Fine Chemicals, Ltd.

DATES: The regulation is effective (*insert date of publication in the Federal Register*). Submit written objections and requests for a hearing by (*insert date 30 days after date of publication in the Federal Register*).

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS-206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3086.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 17, 1997 (62 FR 54117), FDA announced that a food additive petition (FAP 7B4557) had been filed by Yoshitomi Fine Chemicals, Ltd., 6-9 Hiranomachi 2-chome, Chuo-ku, Osaka 541, Japan. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or*

stabilizers for polymers (21 CFR 178.2010) to provide for the safe use of di-*tert*-butylcresyl phosphonite condensation product with biphenyl, produced by the condensation of 2,4-di-*tert*-butylcresol with the Friedel-Crafts addition product of phosphorus trichloride and biphenyl, for use as an antioxidant and/or stabilizer for olefin polymers intended for use in contact with food.

The agency notes that the petitioner later requested that the term meta (*m*) be placed between butyl and cresyl in the name of the subject additive and between butyl and cresol in the name of one of the starting materials in order to provide more accurate and descriptive names. FDA agrees that this nomenclature provides a more accurate description of the additive and its starting materials. Therefore, FDA uses this nomenclature in the final rule.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this rule as announced in the notice of filing for the petition. No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before *(insert date 30 days after date of publication in the **Federal Register**)*, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding an entry under the headings “Substances” and “Limitations” to read as follows:

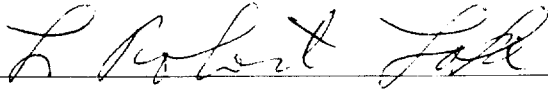
§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * *

(b) * * *

Substances	Limitations
Di- <i>tert</i> -butyl- <i>m</i> -cresyl phosphonite condensation product with biphenyl (CAS Reg. No. 178358-58-2) produced by the condensation of 2,4-di- <i>tert</i> -butyl- <i>m</i> -cresol with the Friedel-Crafts addition product (phosphorus trichloride and biphenyl) so that the food additive has a minimum phosphorus content of 5.0 percent.	For use only: 1. At levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 2.1, 2.2, 3.1(a), 3.1(b), 3.2(a), or 3.2(b).

Dated: 1/6/99
January 6, 1999



L. Robert Lake
Director
Office of Policy, Planning
and Strategic Initiatives
Center for Food Safety and
Applied Nutrition

11 [FR Doc. 98-???? Filed ??-??-98; 8:45 am]

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